

## **EXHIBIT LIST**

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EXHIBIT T – Sewell Second Set of Records, REQUEST C, “remaining responsive records”

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EXHIBIT W – Fifth Set of Records, REQUEST C

**EXHIBIT A**  
REQUEST A and Response



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response PRR McDonough re Representation

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**Patricia Sullivan** <psullivan@cityofhomestead.com>

Thu, Nov 19, 2015 at 11:57 AM

To: Eric McDonough &lt;phd2b05@gmail.com&gt;

Cc: Elizabeth Sewell &lt;ESewell@cityofhomestead.com&gt;, Leticia Anguiano &lt;LAnguiano@cityofhomestead.com&gt;, "Samuel I. Zeskind" &lt;SI.Zeskind@wsh-law.com&gt;

Dr. McDonough,

All records responsive to your request below are privileged, exempt or otherwise protected from disclosure pursuant to Sections 119.071(1)(d)(1), and 90.502 Florida Statutes.

If we can be of further service, please contact us.

Patty Sullivan, Deputy City Clerk

Office of the City Clerk

City of Homestead

650 NE 22 Terrace #100

Homestead, FL 33033

305-224-4440 - office

305-224-4459 - fax

Please consider the environment before printing this email. Under Florida Law, email addresses are public records. If you do not want your email released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**From:** Eric McDonough [mailto:[phd2b05@gmail.com](mailto:phd2b05@gmail.com)]**Sent:** Monday, October 12, 2015 10:15 AM**To:** Patricia Sullivan <[psullivan@cityofhomestead.com](mailto:psullivan@cityofhomestead.com)>**Subject:** Request for Records

Dear Patricia,

I hereby file a records request for all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08.

This is a civil lawsuit for defamation per se and intentional infliction of emotional distress, for actions taken by Alejandro Murguido while off-duty and acting in his personal and not official capacity.

I am also requesting documentation as to who made the decision to have the City defend this officer.

Thanks

Dr. James Eric McDonough

## **EXHIBIT B**

Privilege List of Five (5) Allegedly Responsive Records

**TABLE 1:**

	<b>Date</b>	<b>Type:</b>	<b>From:</b>	<b>To:</b>	<b>Applicable Exemption(s)</b>
<b>1</b>	7/7/15	E-mail	Kim Stewart ( <i>Travelers Insurance</i> )	Eric Stettin ( <i>Attorney</i> ) Priscilla Thompson ( <i>Risk Management</i> )	§ 768.28(16)(b), Fla. Stat. § 624.311(2), Fla. Stat.
<b>2</b>	7/8/15	E-mail	Eric Stettin ( <i>Attorney</i> )	Vivian Manach ( <i>Risk Management</i> ) Priscilla Thompson ( <i>Risk Management</i> ) Richard Weiss ( <i>Attorney</i> )	§ 768.28(16)(b), Fla. Stat. § 119.071(1)(d)(1), Fla. Stat.
<b>3</b>	7/8/15	E-mail	Vivian Manach ( <i>Risk Management</i> )	George Gretsas ( <i>City Manager</i> )	§ 768.28(16)(b), Fla. Stat. § 119.071(1)(d)(1), Fla. Stat.
<b>4</b>	7/9/15	E-mail	George Gretsas ( <i>City Manager</i> )	Vivian Manach ( <i>Risk Management</i> ) Priscilla Thompson ( <i>Risk Management</i> ) Eric Stettin ( <i>Attorney</i> ) Richard Weiss ( <i>Attorney</i> ) City Council Members	§ 768.28(16)(b), Fla. Stat.
<b>5</b>	7/8/15	Letter	Eric Stettin	Officer Alejandro Murguido	§ 119.071(1)(d)(1), Fla. Stat. § 768.28(16)(b), Fla. Stat. § 90.502, Fla. Stat.

**I. FLORIDA’S PUBLIC RECORDS LAW.**

Florida’s public records laws are set forth by Article I, Section 24 of the Florida Constitution, and Chapter 119 Florida Statutes. For its part, Article I, section 24 provides in pertinent part:

## **EXHIBIT C**

Murguido Acting as Private Citizen Not City Officer

## Capt. Angela Washington

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**From:** Det. Antonio Aquino  
**Sent:** Wednesday, February 26, 2014 11:24 PM  
**To:** Vivian Manach; Raquel Elejabarrieta  
**Subject:** Fwd: Summary of our 02/07/14 meeting  
**Attachments:** aquino letter.pdf; ATT00001.htm

Detective Antonio Aquino  
Internal Affairs Division  
Homestead Police Department  
4 South Krome Avenue  
Homestead, FL 33030  
Office: (305) 224-5305  
Fax: (305) 242-0537  
aaquino@homesteadpolice.com

Please consider the environment before printing this e-mail.

~Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.~

Begin forwarded message:

**From:** "Det. Antonio Aquino" <Antonio.Aquino@homesteadpolice.com>  
**Date:** February 26, 2014 at 9:19:41 PM EST  
**To:** "Sgt. Tom Surman" <Tom.Surman@homesteadpolice.com>, Paula Carballosa  
<Paula.Carballosa@homesteadpolice.com>  
**Cc:** Chief Alexander Rolle <Alexander.Rolle@homesteadpolice.com>  
**Subject:** Fwd: Summary of our 02/07/14 meeting

Paula, please place attached letter to citizen complaint that Sgt. Surman was directed by the Chief to handle.

The Officer did not arrest the complainant as a Homestead Officer. He filed his complaint as a citizen in county jurisdiction and the complainant was arrested by the county and the complainant took a plea.

Sgt. T. Surman can handle accordingly and I will update the Chief, and unless the chief directs otherwise. Sgt. Surman will handle as directed.

Detective Antonio Aquino  
Internal Affairs Division  
Homestead Police Department  
4 South Krome Avenue  
Homestead, FL 33030  
Office: (305) 224-5305  
Fax: (305) 242-0537  
aaquino@homesteadpolice.com

Please consider the environment before printing this e-mail.



## **EXHIBIT D**

Zeskind and Guedes Discussing Misleading the Courts

## Samuel I. Zeskind

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**From:** Samuel I. Zeskind  
**Sent:** Friday, June 09, 2017 7:43 AM  
**To:** Edward G. Guedes  
**Subject:** Re: McDonough

Thanks, Ed. I'll review this morning. I definitely struggled with that section (and recommended at the outset, before we ever even had the hearing, that we not fight that issue) I will call you today to discuss and explain why they were not produced

Sent from my iPhone

On Jun 8, 2017, at 8:45 PM, Edward G. Guedes <[EGuedes@wsh-law.com](mailto:EGuedes@wsh-law.com)> wrote:

Sam,

Attached is my redline of the reply/cross-answer brief (saved in AIM). There are substantial revisions, particularly with respect to the arguments pertaining to the earlier non-production of documents that were produced in response to the subsequent request. I had serious problems with the way the argument was articulated. I still think we made a serious mistake in not producing the two existing invoices in response to the first request. Not sure who made that call, but it was playing far too close to the line. I almost decided to confess error, but then thought about it longer and re-drafted.

We should discuss before filing to make sure we're on the same page.

Ed

<3BZ1921.DOCX>

## **EXHIBIT E**

REQUEST B – Jason Jensen’s Request



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response PRR McDonough re Representation

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**Jason Jensen** <jasonajensen@gmail.com>

Wed, Jul 20, 2016 at 7:55 PM

To: Eric McDonough &lt;phd2b05@gmail.com&gt;

Cc: agreenstein004@hotmail.com, craig@weissberglegal.com, Felipe Hemming &lt;Felipe.hemming@gmail.com&gt;, Pro &lt;nfiuzat@gmail.com&gt;, Elizabeth Sewell &lt;ESewell@cityofhomestead.com&gt;

Dear Patricia,

As a frequent visitor to homestead Florida,

I also hereby request this same information.

There is absolutely no way, all of "records [...] for all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08" are "privileged, exempt or otherwise protected from disclosure pursuant to Sections 119.071(1)(d)(1), and 90.502 Florida Statutes."

Specifically, how you, the city, know of this attorney and decided to employ his services, is certainly public information. The very contract to hire the firm must have been voted for in an open meeting pursuant to the city's operating agreement. And those records, by nature and definition, must be completely open without redaction.

So, You clearly hold this man in contempt whatever reason but it is a violation of Florida's laws not to comply. Other than this email, and this act of enjoining this request for information, I have no other affiliation or association with any of the parties involved.

The only information that is privileged is the council your lawyer shares with you. So the decision to hire the person, by definition since the city is not yet represented, is not privileged.

As 119.071(1)(d)(1) states, "that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency," so the only way that could be true is if your email is an admission of some sort of conspiratorial criminal act. How else could someone not involved with an event fall under the category above? But you hiring a divorce attorney because you are getting a divorce is not privileged.

Furthermore, 90.502 specifically excludes "(4) There is no lawyer-client privilege under this section when: (a) The services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew was a crime or fraud."

Which is exactly what I said, in what case is selecting an attorney part of the "mental impression, conclusion, litigation strategy, or legal theory of the [...] agency" other than when "services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew was a crime or fraud"

Or that you are refusing to comply.

Also, before ordering my request, I am entitled to a itemized cost.

[Quoted text hidden]

**EXHIBIT F**  
**INVOICE B**

Date: July 25, 2016

## PUBLIC RECORDS REQUEST INVOICE

Please make checks payable to City of Homestead (credit cards are not accepted).  
If you have any questions concerning this invoice, please call (305) 224-4445.

**EXHIBIT G**  
REQUEST 2



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Records Request

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Eric McDonough &lt;phd2b05@gmail.com&gt;

Sat, Nov 10, 2018 at 12:21 PM

To: Eric &amp; Vanessa McDonough &lt;phd2b05@gmail.com&gt;

----- Forwarded message -----

From: **Eric McDonough** <phd2b05@gmail.com>

Date: Sun, Jun 5, 2016 at 11:15 PM

Subject: Records Request

To: &lt;estetting@wsh-law.com&gt;

Cc: &lt;agreenstein004@hotmail.com&gt;, Gary Ostrow &lt;Gostrow2@gmail.com&gt;, &lt;craig@weissberglegal.com&gt;, Pro &lt;nfiuzat@gmail.com&gt;, Grant Stern &lt;grantstern@gmail.com&gt;, Felipe Hemming &lt;Felipe.hemming@gmail.com&gt;, Sam Zeskind &lt;SZeskind@wsh-law.com&gt;, David M. Wolpin &lt;dwolpin@wsh-law.com&gt;, Carlos Miller &lt;carlosmiller@magiccitymedia.com&gt;, mgray9937 &lt;tgray9937@hotmail.com&gt;

Dear Mr. Stetting,

I am hereby filing a formal 119 request with you personally as a custodian of public records under Florida law.

Under the provisions of FSS. 119.0701(1)(a), you are a contractor and are obligated under law to provide me with copies of public records upon request under FSS. 119.0701(2)(b).

I am therefore requesting:

1) All emails between you, your firm, and the city, excluding any direct communications between you and your Client Mr. Murguido, relating to your defense of Murguido.

2) Any other non-exempt/non-confidential documents, records, communications, etc, ad infinitum related to the city's decision to defend Murguido, or the defense of Murguido.

3) Explicitly cited exemptions for each redaction and/or refused record/document.

4) The number of billable hours you have charged/worked/billed to date in the defense of Murguido. The hourly billing rate you are charging the city, and the total amount to dollars charged or to be billed to the city as of the date of this email, including the time you spend reading and responding to this email and request.

Your expeditious compliance with this lawful request is greatly appreciated, and will alleviate the need for the filing of additional law suits and/or complaints against you personally in this specific matter. Reducing both the amount of litigation and/or the number of litigants/defendants. Which is what we all want in the name of judicial economy right?

Further, as a well-seasoned and licensed attorney, you surely are aware that these records are not exempt or confidential, and they do not fall under the provisions of attorney-client privilege either, as has been falsely claimed in the past by either you, your colleagues, and/or your clients.

For your convenience, and in case you are as clueless about public records law as some of your colleagues apparently are, I have posted links to an AGO and a Florida Supreme Court ruling showing that the requested records are not attorney-client privileged material.

Although, you seemed ignorant and confused about this facet of law when we met at court, with your astounding intelligence, I'm sure after reading the provided links, you will come to the same legal conclusion as have I, and promptly provide me with the requested documents ASAP as required by law. My patience for playing games and general stupidity is wearing thin.

<http://www.myfloridalegal.com/ago.nsf/Opinions/BA424F66B626E94785256513005FEC8F>

[https://scholar.google.com/scholar\\_case?case=696342418946563908&q=public+records+attorney+client+privilege&hl=en&as\\_sdt=4,10](https://scholar.google.com/scholar_case?case=696342418946563908&q=public+records+attorney+client+privilege&hl=en&as_sdt=4,10)



Any attempt to stall or refusal to provide the requested records may subject you to civil and/or criminal liability under the law. As you are likely aware one civil suit has already been filed against the city for their unlawful non-compliance in a similar request filed with them.

Several of my attorneys are copied, as well as media contacts, and a couple of your colleagues. My publisher is also included as failure to produce public records by the government and/or their attorneys is a very exciting and newsworthy story for our organization.

Hopefully you will promptly comply with your requirements under the law. Remembering any automatic delay is a violation of the law, and as an attorney who has been duly warned any unlawful violation or unlawful failure to produce will be a knowing violation, FSS. 119.10(1)(b).

Further, I am sure you are also aware of the legal extreme legal ramifications of concealing public records with a corrupt intent, FSS. 838.022(1)(b), and do not need to be warned against participating in any such illegal activity.

I look forward to a prompt response from you, since you are now under due notice of my request and the law.

Thank you and God bless.

Dr. James Eric McDonough

## **EXHIBIT H**

REQUEST 1 and Acknowledgment



Eric McDonough &lt;phd2b05@gmail.com&gt;

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**Acknowledgement of Receipt of PRR Dated 11/12/2019**

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**Elizabeth Sewell** <ESewell@cityofhomestead.com>  
To: Eric McDonough <phd2b05@gmail.com>

Wed, Nov 13, 2019 at 11:09 AM

Good morning Mr. McDonough,

This email acknowledges receipt of your public record request dated November 12, 2019.

**From:** Eric McDonough [mailto:[phd2b05@gmail.com](mailto:phd2b05@gmail.com)]  
**Sent:** Tuesday, November 12, 2019 1:11 AM  
**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>  
**Subject:**

Dear Elizabeth,

I am filing a formal records request under FS. 119 for the exact same request I file on October 12, 2015.

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"I hereby file a records request for all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08.

This is a civil lawsuit for defamation per se and intentional infliction of emotional distress, for actions taken by Alejandro Murguido while off-duty and acting in his personal and not official capacity.

I am also requesting documentation as to who made the decision to have the City defend this officer."

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I only want records which were responsive when the request was responded to on November 19, 2015 by Patricia Sullivan claiming all records were exempt.

I want all the records which were then claimed to be exempt or otherwise protected from disclosure.

If any records are still exempt or confidential I want the reasons provided in writing.

I want electronic copies where available, or immediate inspection otherwise.

As these records were available then, have been litigated and presented for in camera inspection, and the exemptions

11/22/2019

Gmail - Acknowledgement of Receipt of PRR Dated 11/12/2019

claimed no longer exists they should be immediately available.

Thank you.

Dr. James Eric McDonough

## **EXHIBIT I**

Four (4) Produced Emails, One (1) Redacted

**Eric L. Stettin**

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**From:** George Gretsas <GGretsas@cityofhomestead.com>  
**Sent:** Thursday, July 09, 2015 2:22 AM  
**To:** Vivian Manach  
**Cc:** Richard Jay Weiss; Eric L. Stettin; Cate McCaffrey; Priscilla Thompson; Jeff Porter; Jon Burgess; Stephen Shelley; Judy Waldman; Jimmie Williams; Elvis Maldonado; Patricia Fairclough  
**Subject:** Re: Officer Murguido recommendation  
**Attachments:** image001.gif

Ok. Please move forward. Thanks

On Jul 8, 2015, at 1:50 PM, Vivian Manach <[vmanach@cityofhomestead.com](mailto:vmanach@cityofhomestead.com)> wrote:

Good Afternoon George. Please see recommendation from Eric Stettin below regarding the lawsuit filed against Officer Murguido. Mr. Stettin recommends defending Officer Murguido and having him sign the attached letter protecting the City in Case of any conflict.

Please let me know if you have any questions. Vivian

**From:** Eric L. Stettin [<mailto:ESTettin@wsh-law.com>]  
**Sent:** Wednesday, July 08, 2015 1:34 PM  
**To:** Priscilla Thompson; Vivian Manach  
**Cc:** Richard Jay Weiss  
**Subject:** FW: E3X1549 City of Homestead  
**Importance:** High

Hi Priscilla and Vivian,

I recommend that the City provide a defense to Officer Murguido due to the coverage position of Travelers, see below. If the City chooses not to provide the defense, we run the risk that Travelers provides a lawyer and then sends the bill to the City up to the 100k SIR. That is the next step for Travelers to take in light of their coverage position that the claim falls within the policy and that the City should be defending the claim. Additionally, it is likely that Murguido files a claim against the City for a defense. Remember, the duty to defend is much broader than the duty to indemnify. By picking up the defense, the City controls the litigation and strategy. I recommend we pick up the defense and insist that Officer Murguido sign the attached letter protecting the City in case of a conflict, and acknowledging that the City has not agreed to indemnify the claim, but rather only to provide the defense.

Please review and call me with any questions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Eric Stettin

Partner

**WEISS SEROTA HELEMAN  
COLE & BEERMAN**

200 East Broward Blvd., Suite 1900 | Fort Lauderdale, FL 33301  
P: (954) 763-4242 F: (954) 764-7770 wsh-law.com | vCard



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## **EXHIBIT J**

Request 1 Response Letter





*City Council*

Steven D. Losner  
*Mayor*

Patricia Fairclough-Staggers  
*Vice-Mayor*

Jenifer N. Bailey  
*Councilwoman*

Sean L. Fletcher  
*Councilman*

Larry Roth  
*Councilman*

Stephen R. Shelley  
*Councilman*

George Gretsas  
*City Manager*

*City Hall*

100 Civic Court  
Homestead, FL 33030  
305-224-4400

[www.cityofhomestead.com](http://www.cityofhomestead.com)

November 19, 2019

VIA Email ([phd2b05@gmail.com](mailto:phd2b05@gmail.com))

James McDonough  
32320 SW 199 Avenue  
Miami, FL

Re: Public Records Requests sent on November 12, 2019

Dear Mr. McDonough:

The City is in receipt of your November 12, 2019 Public Records Request wherein you requested "all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08." Enclosed please find the records responsive to your request. Please note that the City has redacted the content of the correspondence from Kim Stewart to Eric Stettin and Priscilla Thompson, dated July 7, 2015, as the record is confidential and exempt pursuant to section 624.311(2), Florida Statutes, which states:

The records of insurance claim negotiations of any state agency or political subdivision ***are confidential and exempt from s. 119.07(1) until termination of all litigation and settlement of all claims arising out of the same incident.***

§ 624.311(2), Fla. Stat. (emphasis added). This exemption is applicable here as it covers communications between the City's retained counsel and an insurance carrier concerning claim negotiations. *See* Fla. AGO 85-102, 1985 WL 190082 (1985); *see also City of Homestead v. McDonough*, 232 So. 3d 1069 (Fla. 3d DCA 2017) (affirming the trial court's finding that *this record* is confidential and exempt pursuant to section 624.311(2)). Moreover, because the insurance claim at issue relates to Case no. 15-08342, which remains active and pending, the record remains confidential and exempt.<sup>1</sup>

Should you have any questions, please do not hesitate to contact me at 305-224-4442.

Sincerely,

Elizabeth Sewell, MMC, MPA  
City Clerk

<sup>1</sup> In addition, during the September 12, 2016 hearing in Case No. 16-12412 (relating to your original submission of this request), your counsel stated on the record that you were not asking for any correspondence between Officer Murguido and the law firm of Weiss Serota Helfman Cole & Bierman. *See* Transcript, page 23, lines 1 through 4. As such, the City does not read your current request to include a request for the July 8, 2015 letter from Eric Stettin to Officer Murguido (identified as Record 5 in Case No. 16-12412).

**EXHIBIT K**  
Conference Calls

## Maria E. Cerice

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**From:** Priscilla Thompson <PThompson@cityofhomestead.com>  
**Sent:** Monday, April 27, 2015 4:17 PM  
**To:** George Gretsas; Al Rolle; Vivian Manach  
**Cc:** Eric L. Stettin  
**Subject:** Accepted: Dr. James McDonough v. Alejandro Murguido et al.,

## Maria E. Cerice

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**From:** Priscilla Thompson <PThompson@cityofhomestead.com>  
**Sent:** Monday, April 27, 2015 4:12 PM  
**To:** Eric L. Stettin  
**Subject:** Accepted: Dr. James Mcdounough v. Alejandro Murguido, et al,

## Maria E. Cerice

---

**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@cityofhomestead.com> on behalf of Vivian Manach <vmanach@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
**To:** Ilene Fernandez; Ana Sanroman  
**Subject:** Meeting Forward Notification: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

### Your meeting was forwarded

Vivian Manach has forwarded your meeting request to additional recipients.

#### Meeting

Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

#### Meeting Time

Thursday, 30 April 2015 16:00-16:30.

#### Recipients

City of Homestead City Manager

Al Rolle

Richard Jay Weiss

Eric Stettin Esq. (EStettin@wsh-law.com)

Priscilla Thompson

Ana Sanroman

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2010

**Maria E. Cerice**

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**From:** Maria E. Cerice <MCerice@wsh-law.com> on behalf of Richard Jay Weiss  
<RWeiss@wsh-law.com>  
**Sent:** Thursday, April 30, 2015 11:21 AM  
**To:** Ilene Fernandez; Ana Sanroman  
**Subject:** Accepted: FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

## Maria E. Cerice

---

**From:** Maria E. Cerice <MCerice@wsh-law.com> on behalf of Richard Jay Weiss  
<RWeiss@wsh-law.com>  
**Sent:** Thursday, April 30, 2015 11:21 AM  
**To:** City of Homestead City Manager  
**Subject:** Accepted: FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

**Maria E. Cerice**

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**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:13 AM  
**To:** Ilene Fernandez; Ana Sanroman  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,



**Maria E. Cerice**

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**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:13 AM  
**To:** Barbara Mora  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

## Maria E. Cerice

---

**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:13 AM  
**To:** Vivian Manach; Priscilla Thompson; 'Chief Alexander Rolle'  
**Cc:** George Gretsas; 'Cmdr. Antonio Aquino'  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

## Maria E. Cerice

---

**From:** Vivian Manach <vmanach@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
**To:** Barbara Mora  
**Subject:** FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,  
**Importance:** High

## Maria E. Cerice

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**From:** Vivian Manach <vmanach@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
**To:** Ilene Fernandez; Ana Sanroman  
**Subject:** FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,  
**Importance:** High

## Maria E. Cerice

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**From:** Vivian Manach <vmanach@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
**To:** City of Homestead City Manager; Al Rolle; Richard Jay Weiss; Eric L. Stettin; Priscilla Thompson; Ana Sanroman  
**Subject:** FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,  
**Importance:** High

## Maria E. Cerice

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**From:** Vivian Manach <vmanach@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
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**Importance:** High

## Maria E. Cerice

---

**From:** Vivian Manach <[vmanach@cityofhomestead.com](mailto:vmanach@cityofhomestead.com)> on behalf of City of Homestead City Manager <[COHCityManager@cityofhomestead.com](mailto:COHCityManager@cityofhomestead.com)>  
**Sent:** Thursday, April 30, 2015 11:12 AM  
**To:** City of Homestead City Manager; Al Rolle; Richard Jay Weiss; Eric L. Stettin; Priscilla Thompson; Ana Sanroman  
**Subject:** FW: Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,  
**Importance:** High

**Maria E. Cerice**

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**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Tuesday, April 28, 2015 1:59 PM  
**To:** Barbara Mora  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,



**Maria E. Cerice**

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**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Tuesday, April 28, 2015 1:59 PM  
**To:** Vivian Manach; Priscilla Thompson; 'Chief Alexander Rolle'  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

**Maria E. Cerice**

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**From:** Ana Sanroman <asanroman@cityofhomestead.com> on behalf of City of Homestead City Manager <COHCityManager@cityofhomestead.com>  
**Sent:** Tuesday, April 28, 2015 1:58 PM  
**To:** Barbara Mora  
**Subject:** Conference Call re Dr. James Mcdounough v. Alejandro Murguido, et al,

## **EXHIBIT L**

### Defamation Complaint

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

CASE NO: 15-08342 CE 08

CIVIL DIVISION

DR. JAMES McDONOUGH, individually,  
Plaintiff,

VS.

ALEJANDRO MURGUIDO,  
LUIS GOMEZ and ALEJANDRO  
MURGUIDO, individually

Defendants

STATE OF FLORIDA:

To All and Singular Sheriffs of said State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Complaint in  
this action on Defendant:

Alejandro Murguido  
Homestead Police Department  
1601 SE 28<sup>th</sup> Avenue  
Homestead, Florida 33035

A lawsuit has been filed against you. You have 30 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements.

You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, send the original to the Court, located at the Miami-Dade County Courthouse, 73 W. Flagler St., Miami, FL 33130. The Defendant is required to serve written defenses to the Complaint to Plaintiff's Attorney, who is Alan Greenstein, at 9200 S. Dadeland Blvd., Suite 308, Miami, FL 33156.

CHS  
#780  
4/16/15  
1018 Am

HARVEY RUVIN  
CLERK OF COURT

By: DEBRA SAN  
DEPUTY CLERK

DATE: APR 13 2015

(COURT SEAL)

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 30 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal.

Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 30 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce tribunal. Un simple coup de téléphone est insuffisant pour vous protéger. Vous êtes obligés de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du tribunal.

Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie de votre réponse écrite au "Plaintiff" (Plaignant ou à son avocat) nommé ci-dessous.

IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA  
GENERAL JURISDICTION DIVISION

CASE NO.:

DR JAMES MCDONOUGH,

Plaintiff,

vs.

ALEJANDRO MURGUIDO,

LUIS GOMEZ, and

ALEJANDRO MURGUIDO JR

Defendants.

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COMPLAINT

Plaintiff, DR JAMES MCDONOUGH, representing himself, *in propria persona*, sues Defendants ALEJANDRO MURGUIDO, LUIS GOMEZ and ALEJANDRO MURGUIDO JR, for their defamatory and unlawful acts alleged below:

1. This is a cause of action for damages in excess of \$15,000 exclusive of all fees, cost and interest.
2. Plaintiff, DR JAMES MCDONOUGH ("McDonough" and/or "Plaintiff"), seeks to recover damages for defamatory Statements published by ALEJANDRO MURGUIDO, LUIS

GOMEZ and ALEJANDRO MURGUIDO JR (referred to respectively as "Murguido", "Gomez" and "Junior" individually, and collectively as "Defendants", or singularly as "Defendant") who, wrongfully and maliciously, accused Plaintiff of committing Corruption Through Threats, as well as other crimes including Aggravated Stalking and Trespass.

3. The subject Statements concerning the Plaintiff were false, defamatory, and injurious to his professional and personal reputation, being intentionally sworn with malicious intent to inflict emotional distress.

#### **PARTIES**

4. McDonough is an individual residing in Miami-Dade County (MDC), Florida.

5. Murguido is a police officer, for Homestead Police Department (HPD), and resides in MDC.

6. Gomez is a sheriff's deputy, for Monroe County Sheriff's Office (MCSO), and at the time of the alleged actions lived in MDC.

7. Junior, the son of Murguido, is a civilian residing in MDC.

#### **JURISDICTION AND VENUE**

8. Jurisdiction and venue are proper in MDC in that McDonough resides in and has suffered injury in MDC, Florida as a result of the tortious act of verbally publishing defamatory statements about him.



### FACTS

9. On October 29, 2012, Plaintiff had a conversation with Murguido about his dangerous driving behavior in the community, in front of Murguido's house.

10. Murguido was in his front yard speaking with his lawn man, when Plaintiff walking down the street, motioned for his attention. Murguido motioned for Plaintiff to wait a minute.

11. When Murguido was finished speaking with his lawn man, he approached Plaintiff at the road. After this conversation, and Plaintiff walking away, Murguido chased down Plaintiff and detained him without reasonable suspicion or probable cause.

12. It is this conversation specifically, that Defendants have given a false narrative of, rising to the level of defamation *per se*. This demonstrated by the published recording of the conversation, relative to sworn statements made by all Defendants.

13. Plaintiff has never one single time, entered Murguido's property, on foot or by vehicle, and has always been on the public street.

14. Plaintiff never threatened Murguido at any time, but did advise he would report him to his supervisor, if he continued to drive dangerously.

15. On December 27, 2012, January 24, 2013, and again on February 13, 2013, Plaintiff called Homestead Police Department and Internal Affairs (IA). trying to file a complaint against Murguido.

16. On February 15, 2013, Murguido off-duty filed a criminal complaint with Officer W. Marti of the MDPD. In his complaint Murguido falsely accused Plaintiff of committing Corruption Through Threats, section 838.021, Florida Statutes, Aggravated Stalking, section 784.048(3), Florida Statutes, both third degree felonies. Murguido did this by making false statements that Plaintiff had unlawfully threatened him on October 29, 2012, while trespassing on his property, and that the Plaintiff had entered his property and threatened him earlier on July 27, 2012. These statements are false.

17. Murguido swore under oath on February 28, 2013 that Plaintiff had contacted IA, and that Murguido was advised to file against the Plaintiff. Yet, the earlier calls to HPD and IA, all made before this, were not returned until March 19, 2013.

18. On March 8, 2013, Junior gave a false statement to Alvarez. In his statement, Junior alleged that Plaintiff walked half way up the drive way, and that Murguido yelled at Plaintiff to leave and Plaintiff refused. This statement is false.

19. On March 9, 2013, Murguido gave a sworn taped statement to Alvarez, notably he alleged that on October 29, 2012 Plaintiff walked half way up the drive way. Murguido earlier on February 28, 2013 made a statement sworn under oath, that he was speaking with his lawn man in his front yard when Plaintiff approached.

20. Murguido alleged that Plaintiff threatened him by saying he was "going to get him". This is a false statement.

21. Murguido alleged that Plaintiff would not leave until he walked away and entered his garage. This is a false statement.

22. Murguido alleged Plaintiff had yelled at and threatened him earlier on July 27, 2012. This is a false statement.

23. On April 15, 2013, Plaintiff was arrested on his property, based upon the false statements of the Defendants. This was for Corruption Through Threats and Aggravated Stalking, both third degree felonies.

24. The State Attorney, based upon the false statements of defendants, reduced Aggravated Stalking to Simple Stalking, and added two counts of trespass. The State Attorney dropped the Corruption Through Threats charge.

25. On May 7, 2013, Gomez gave a sworn recorded statement to Alvarez, in the presence of MDPD Detective Webster. Gomez alleged that Murguido was in his garage area working on his vehicles, when the Plaintiff stopped in front of Murguido's property and started screaming at him. The Plaintiff then stepped onto Murguido's property and continued screaming. Gomez alleged that Murguido was "screaming at the top of his lungs" for Plaintiff to get off his property and Plaintiff refused. Gomez alleges that Plaintiff would not leave until Murguido went into his house. These statements by Gomez are false.

26. Plaintiff(s) were not in the performance of any official duty or act when making the defamatory statements.

27. These statements were not privileged, and were published to a third party, with malice, thereby damaging the Plaintiff.

**Count I**  
**(Slander *Per Se*—As to Murguido)**

28. Plaintiff repeats and incorporates by reference paragraphs 1 through 27 above as though fully set forth herein.

29. On February 15, 2013 Murguido gave statements to MDPD Officer Marti. These statements allege Plaintiff committed Corruption Through Threats, Aggravated Stalking, and Trespass.

30. On March 4, 2013, Murguido confirmed to MDPD Detective Alvarez, his earlier statements to Officer Marti.

31. On April 9, 2013, Murguido gave recorded statements under oath to Detective Alvarez. These statements allege Plaintiff committed Corruption Through Threats, Aggravated Stalking, and Trespass.

32. None of the statements made by Murguido to either Marti or Alvarez were privileged.

33. The statements made to Marti and Alvarez accuses Plaintiff of crimes.

34. The statements made to Marti and Alvarez are false.

35. The statements made to Marti and Alvarez were made with malice.

36. As a direct and proximate result of the actions of the defendant, the Plaintiff suffered both physical and mental injuries and is entitled to relief.

Wherefore the Plaintiff is entitled to:

- A. Compensatory damages for the physical and mental injuries suffered.
- B. Cost of this action.
- C. Any other remedy the Court deems appropriate.

**Count II**  
**(Slander *Per Se*—As to Gomez)**

37. Plaintiff repeats and incorporates by reference paragraphs 1 through 36 above as though fully set forth herein.

38. On April 10, 2013 Gomez made statements to MDPD Detective Alvarez. These statements allege Plaintiff committed Corruption Through Threats and Trespass.

39. On May 7, 2013 Gomez gave recorded statements under oath to Detective Alvarez. These statements allege Plaintiff committed Corruption Through Threats and Trespass.

40. None of the statements made by Gomez to Alvarez were privileged.

41. The statements made to Alvarez accuse Plaintiff of crimes.

42. The statements made to Alvarez are false.

43. The statements made to Alvarez were made with malice.

44. As a direct and proximate result of the actions of the defendant, the Plaintiff suffered both physical and mental injuries and is entitled to relief.

Wherefore the Plaintiff is entitled to:

- A. Compensatory damages for the physical and mental injuries suffered.
- B. Cost of this action.
- C. Any other remedy the Court deems appropriate.

**Count III**  
**(Slander *Per Se*—As to Junior)**

45. Plaintiff repeats and incorporates by reference paragraphs 1 through 44 above as though fully set forth herein.

46. On April 8, 2013 Junior made statements to MDPD Detective Alvarez. These statements allege Plaintiff committed Trespass.

47. None of the statements made by Gomez to Alvarez were privileged.

48. The statements made to Alvarez accuse Plaintiff of crimes.

49. The statements made to Alvarez are false.

50. The statements made to Alvarez were made with malice.

51. As a direct and proximate result of the actions of the defendant, the Plaintiff suffered both physical and mental injuries and is entitled to relief.

Wherefore the Plaintiff is entitled to:

- A. Compensatory damages for the physical and mental injuries suffered.
- B. Cost of this action.
- C. Any other remedy the Court deems appropriate.

**Count IV**  
**(Intentional Infliction of Emotional Distress)**

52. Plaintiff repeats and incorporates by reference paragraphs 1 through 51 above as though fully set forth herein.

53. The acts and/or omissions of acts of Defendants involved extreme and outrageous conduct which causes McDonough to suffer severe emotional distress.

54. The acts and/or omissions of acts of Defendants involved a deliberate or reckless infliction of mental suffering, in that Defendants intended their behavior, when they knew, or should have known, that emotional distress to McDonough would likely result.

55. The conduct of Defendants exceeds the bounds of decency in a civilized society and was such that a person of normal sensibility upon hearing what Defendants did would exclaim "outrageous".

56. As a result of the infliction of emotional distress by Defendants, McDonough has suffered damages to include, but not limited to, humiliation, harassment, mental suffering and pain, damage to family relationships, damage to reputation, and other damages which are permanent or continuing in nature.

57. As a direct and proximate result of the actions of the defendant, the Plaintiff suffered both physical and mental injuries and is entitled to relief.

Wherefore the Plaintiff is entitled to:

- A. Compensatory damages for the physical and mental injuries suffered.
- B. Cost of this action.
- C. Any other remedy the Court deems appropriate.

**PRAYER FOR RELIEF**

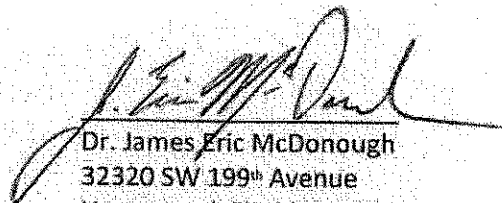
WHEREFORE, Plaintiff, Dr. James McDonough seeks judgment as follows:

- i) Awarding Plaintiff all compensatory damages he has suffered, including consequential and incidental damages, as a result of Defendants' wrongful conduct in an amount to be determined;
- ii) Granting preliminary and permanent injunctive relief to prevent Defendants from making further false, misleading, and malicious statements concerning Plaintiff;
- iii) Awarding Plaintiff his cost, expenses and attorney's fees incurred in connection with this action; and
- iv) For such other relief deemed just and proper by the Court.

**Jury Demand**

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,



Dr. James Eric McDonough  
32320 SW 199<sup>th</sup> Avenue  
Homestead, Florida 33030  
Telephone: 571-245-5410  
Email: [phd2b05@gmail.com](mailto:phd2b05@gmail.com)



## **EXHIBIT M**

Kosto Retainer Email

**Eric L. Stettin**

---

**From:** Steven N. Kosto  
**Sent:** Wednesday, July 08, 2015 11:44 AM  
**To:** Eric L. Stettin  
**Subject:** Murguido/mcdonough  
**Attachments:** C:\USERS\SKOSTO\APPDATA\LOCAL\TEMP\WDGX\15472\ATCH\001\Murguido. retainer letter (00058767xCA02A).wdl

## **EXHIBIT N**

Stettin-Zeskind Email Chain

**Eric L. Stettin**

---

**From:** Eric L. Stettin  
**Sent:** Tuesday, October 13, 2015 11:47 AM  
**To:** Samuel I. Zeskind  
**Subject:** RE: FW: Request for Records

Call on my cell 954-557-8599

Sent from Outlook

On Tue, Oct 13, 2015 at 8:30 AM -0700, "Samuel I. Zeskind" <[SZeskind@wsh-law.com](mailto:SZeskind@wsh-law.com)> wrote:

I don't think our phones are working

---

**From:** Eric L. Stettin  
**Sent:** Tuesday, October 13, 2015 11:30 AM  
**To:** Samuel I. Zeskind  
**Subject:** RE: FW: Request for Records

In depo will call in few

Sent from Outlook

On Tue, Oct 13, 2015 at 8:29 AM -0700, "Samuel I. Zeskind" <[SZeskind@wsh-law.com](mailto:SZeskind@wsh-law.com)> wrote:

Yes. I will come by if you would like to discuss

---

**From:** Eric L. Stettin  
**Sent:** Tuesday, October 13, 2015 11:29 AM  
**To:** Samuel I. Zeskind  
**Subject:** Re: FW: Request for Records

Are you in?

Sent from Outlook

On Tue, Oct 13, 2015 at 7:10 AM -0700, "Samuel I. Zeskind" <[SZeskind@wsh-law.com](mailto:SZeskind@wsh-law.com)> wrote:

FYI

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**From:** Eric McDonough [<mailto:phd2b05@gmail.com>]  
**Sent:** Tuesday, October 13, 2015 12:54 AM  
**To:** Samuel I. Zeskind

**Cc:** [estetting@wsh-law.com](mailto:estetting@wsh-law.com)

**Subject:** Fwd: Request for Records

Dear Mr Zeskind,

I am forwarding you this records request. I sent it to Patricia Sullivan earlier today, but she is out of town.

Therefore, I am asking you for the request. Since most of my records request go through you and/or our office anyway, and since your firm can easily dispense with the penultimate question of the instant request, this request is hereby formally filed this with you, and this should be considered your due and proper notice of my request under FSS 119.

You can expedite and resolve this request, and I authorize the narrowing of the request, by just clearly and simply acknowledging for the record that the City of Homestead is indeed paying for the legal defense of Officer Murguido. I know you are not required to answer question, but it makes life easier on all parties, and save your firm and the City of Homestead time and resources.

This is neither exempt nor confidential information under any exclusions in FSS 119, and a simple affirmation of this fact, would make the rest of the request moot.

This request will not require extensive research, copying fees or redaction, and is part of the public record. Further, as such there should be no fees related to this request. Further still, it is expected that to be reasonably timely, this request can be provided before this week ends, if not within 24 hours from receipt of opening this email.

I thank you for your time, and expected fast and expeditious delivery of public information/records. God bless.

Dr. James Eric McDonough

ps. Just so your not worried about disclosing any strategic secrets here, Eric Stettin an attorney for your firm representing Murguido, admitted on the record in open court that he was working as an attorney for the City of Homestead defending Murguido, and not as a private attorney. He has been copied to this email, and can confirm such.

pss. Also Mr. Stettin admitted basically the same to me when he commented that if I removed all mention of Murguido being a cop, the City would likely stop defending him at that point. He settled the question himself, but I would like definitive official acknowledgement of such, not being off the record. He has been copied to this email, and can confirm such.

psss. It is respectfully advised, that you may wish to advise, that the attorneys from your firm to stop making false statements on official court records/documents, ex. repeatedly falsely stating they have attempted to reach opposing counsel, to reach an agreement, when they have my phone number, email and home address but have not contacted me. True it may be minor, but it just looks bad on the basis of the lawsuit to begin with, which is people making false statements on the record, don't you agree? We should all try diligently to keep the record clear and accurate, and no less would be expected from well trained and seasoned attorneys.

pssss. It is humbly suggested that your firm might want to advise your attorney's, that they may consider not getting aggressive in the face of plaintiffs unprovoked, then attempting to threaten and/or intimidate them, particularly when they are victims of abuse. It just doesn't send an image of good faith cooperation, particularly in light of them not treating such a plaintiff/opposing counsel respectfully and ethically because they are *pro se*. This includes failing to contact opposing counsel to schedule a hearing.

psssss. Many attorneys, and people regardless of profession for that matter, have the ethics of a slug, that is

granted and understood. However, better conduct is reasonably expected from such an established and prestigious firm, who are believed to hold themselves to at least the bare minimal standards.

----- Forwarded message -----

From: **Eric McDonough** <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)>

Date: Mon, Oct 12, 2015 at 10:15 AM

Subject: Request for Records

To: Patricia Sullivan <[psullivan@cityofhomestead.com](mailto:psullivan@cityofhomestead.com)>

Dear Patricia,

I hereby file a records request for all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08.

This is a civil lawsuit for defamation per se and intentional infliction of emotional distress, for actions taken by Alejandro Murguido while off-duty and acting in his personal and not official capacity.

I am also requesting documentation as to who made the decision to have the City defend this officer.

Thanks

Dr. James Eric McDonough

## **EXHIBIT O**

Stettin-Sewell Email Chain

## Eric L. Stettin

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**From:** Eric L. Stettin  
**Sent:** Thursday, October 22, 2015 12:17 PM  
**To:** 'Elizabeth Sewell'  
**Subject:** RE: Request for Records

Please call me.

---

**From:** Elizabeth Sewell [<mailto:ESewell@cityofhomestead.com>]  
**Sent:** Thursday, October 22, 2015 12:14 PM  
**To:** Eric L. Stettin  
**Subject:** FW: Request for Records

**From:** Elizabeth Sewell  
**Sent:** Tuesday, October 13, 2015 9:15 AM  
**To:** Vivian Manach <[vmanach@cityofhomestead.com](mailto:vmanach@cityofhomestead.com)>; Al Rolle <[arolle@homesteadpolice.com](mailto:arolle@homesteadpolice.com)>  
**Subject:** FW: Request for Records

Good morning,

Please see the below record request from Mr. Eric McDonough.

Thank you.

**From:** Patricia Sullivan  
**Sent:** Monday, October 12, 2015 10:40 AM  
**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>; Leticia Anguiano <[LAnguiano@cityofhomestead.com](mailto:LAnguiano@cityofhomestead.com)>  
**Subject:** Fwd: Request for Records

Sent from my iPhone

Begin forwarded message:

**From:** Eric McDonough <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)>  
**Date:** October 12, 2015 at 10:15:04 AM EDT  
**To:** Patricia Sullivan <[psullivan@cityofhomestead.com](mailto:psullivan@cityofhomestead.com)>  
**Subject:** Request for Records

Dear Patricia,

I hereby file a records request for all documentation and financial records related to the City's decision to use the law firm of Weiss, Serota, Helfman, Cole and Bierman to defend officer Alejandro Murguido in Miami-Dade County case no. 15-08342 CA 08.



This is a civil lawsuit for defamation per se and intentional infliction of emotional distress, for actions taken by Alejandro Murguido while off-duty and acting in his personal and not official capacity.

I am also requesting documentation as to who made the decision to have the City defend this officer.

Thanks

Dr. James Eric McDonough

## **EXHIBIT P**

Email Requesting CITY Defend Murguido

## Maria E. Cerice

---

**From:** Cmdr. Antonio Aquino <Antonio.Aquino@homesteadpolice.com>  
**Sent:** Thursday, April 16, 2015 2:18 PM  
**To:** Vivian Manach  
**Cc:** Chief Alexander Rolle; Major Scott Kennedy; Priscilla Thompson  
**Subject:** Re: James McDonough lawsuit

Thank you

Commander Antonio Aquino  
Homestead Police Department  
Professional Compliance Bureau  
1601 SE 28 Avenue  
Homestead, FL 33035  
Office: 305-224-5520  
Fax: 305-242-0537  
E-mail: [AAquino@homesteadpolice.com](mailto:AAquino@homesteadpolice.com)

> On Apr 16, 2015, at 1:38 PM, Vivian Manach <[vmanach@cityofhomestead.com](mailto:vmanach@cityofhomestead.com)> wrote:

>

> Good Afternoon Commander Aquino. I am forwarding this to Priscilla so that she can check with our insurance carrier to see whether this would be a covered claim. We will keep you posted.

>

> Please let me know if you have any questions. Vivian

>

> Vivian Mañach, PHR

> Director of Human Resources

> City of Homestead

> Office: 305-224-4465

> Fax: 305-224-4479

> [vmanach@cityofhomestead.com](mailto:vmanach@cityofhomestead.com)<<mailto:vmanach@cityofhomestead.com>>

>

>

> From: Cmdr. Antonio Aquino [<mailto:Antonio.Aquino@homesteadpolice.com>]

> Sent: Thursday, April 16, 2015 12:16 PM

> To: Vivian Manach

> Cc: Chief Alexander Rolle; Major Scott Kennedy

> Subject: James McDonough lawsuit

> Importance: High

>

> Good afternoon Vivian,

> Officer Murguido was served with a law suit, chief wants to inquire if the City can represent him or assist with this matter.

> Please advise,

>

> Commander Antonio Aquino

> Professional Compliance Bureau

> Homestead Police Department

> 1601 SE 28th Avenue

> Homestead, FL 33035  
> Office:(305) 224-5305  
> Fax: (305) 242-0537  
> [aaquino@homesteadpolice.com](mailto:aaquino@homesteadpolice.com)<mailto:aaquino@homesteadpolice.com>  
> Please consider the environment before printing this e-mail.  
> ~Under Florida law, e-mail addresses are public records. If you do  
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>  
> <scan.pdf>

## **EXHIBIT Q**

Responsive WSH Billing Invoices

**WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.**

2525 Ponce de Leon Boulevard  
Suite 700

Coral Gables, Florida 33134

305-854-0800

Fax 305-854-2323

Tax ID No. 20-8112403

Homestead, City of  
c/o Ms. Priscilla Thompson  
Homestead Risk Manager  
790 N. Homestead Blvd.  
Homestead, FL 33030

October 23, 2015  
**Invoice # 172224**  
Page 1 of 1

CLIENT: 2847 - Homestead, City of  
Re: 1126 McDonough, James - Liability - COH Retainer

**For Professional Services Rendered**

<b>Date</b>		<b>Services</b>	<b>Hours</b>	<b>Amount</b>
09/29/15	els	Receipt And Review Of Notice Of Postponement Of Hearing Filed By Defendant, Luis Gomes	0.30	0.00
09/29/15	snk	Receipt And Review Of Service Of Court Document From Clerk Of The Court Enclosing Notice Of Postponement Of Hearing Filed By Defendant, Luis Gomes	0.30	0.00
09/29/15	els	Preparation And Review Of Correspondence To Mr. McDonough Regarding Motion To Dismiss	0.30	0.00
09/29/15	els	Preparation And Review Of Correspondence To Mr. Jabro Regarding Motion To Dismiss	0.30	0.00
<b>Total Professional Services</b>			<b>1.20</b>	<b>\$0.00</b>

**Invoice Summary**

For Professional Services	0.00
For Disbursements Incurred	0.00
<b>Total this Invoice</b>	<b>\$0.00</b>
<b>Past Due Balance</b>	<b>\$138.87</b>
<b>Total Balance Due</b>	<b>\$138.87</b>

WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.

2525 Ponce de Leon Boulevard  
Suite 700

Coral Gables, Florida 33134

305-854-0800

Fax 305-854-2323

Tax ID No. 20-8112403

Homestead, City of  
c/o Ms. Priscilla Thompson  
Homestead Risk Manager  
790 N. Homestead Blvd.  
Homestead, FL 33030

October 1, 2015  
**Invoice # 171168**  
Page 1 of 1

CLIENT: 2847 - Homestead, City of  
Re: 1126 McDonough, James - Liability - COH Retainer

**For Professional Services Rendered**

Date		Services	Hours	Amount
08/06/15	els	Preparation And Review Of Correspondence To Mr. Spencer Regarding Council Meeting With Enclosure	0.30	0.00
08/06/15	snk	Preparation And Review Of Correspondence To Ms. Thompson With Enclosure	0.30	0.00
<b>Total Professional Services</b>			<b>0.60</b>	<b>\$0.00</b>

**Invoice Summary**

For Professional Services	0.00
For Disbursements Incurred	0.00
<b>Total this Invoice</b>	<b>\$0.00</b>

**WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.**

2525 Ponce de Leon Boulevard  
Suite 700

Coral Gables, Florida 33134

305-854-0800

Fax 305-854-2323

Tax ID No. 20-8112403

Homestead, City of  
c/o Ms. Priscilla Thompson  
Homestead Risk Manager  
790 N. Homestead Blvd.  
Homestead, FL 33030

October 21, 2015

**Invoice # 172203**

Page 1 of 1

CLIENT: 2847 - Homestead, City of  
Re: 1126 McDonough, James - Liability - COH Retainer

**For Disbursements Incurred**

<b>Date</b>	<b>Description</b>	<b>Amount</b>
09/04/15	Misc. Advanced - Person Search - TLO, LLC	2.00
09/04/15	Misc. Advanced - Social Media - TLO, LLC	1.00
09/04/15	Misc. Comprehensive Report - TLO, LLC	10.00
	Westlaw Research	125.87
<b>Total Disbursements Incurred</b>		<b>\$138.87</b>

**Invoice Summary**

For Professional Services	0.00
For Disbursements Incurred	138.87
<b>Total this Invoice</b>	<b>\$138.87</b>



**WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.**

2525 Ponce de Leon Boulevard  
Suite 700

Coral Gables, Florida 33134

305-854-0800

Fax 305-854-2323

Tax ID No. 20-8112403

Homestead, City of  
c/o Ms. Priscilla Thompson  
Homestead Risk Manager  
790 N. Homestead Blvd.  
Homestead, FL 33030

September 1, 2015

**Invoice # 170062**

Page 1 of 2

CLIENT: 2847 - Homestead, City of  
Re: 1126 McDonough, James - Liability - COH Retainer

**For Professional Services Rendered**

Date		Services	Hours	Amount
07/15/15	els	Preparation And Review Of Notice Of Appearance	0.30	0.00
07/15/15	els	Preparation And Review Of Designation Of Email Addresses	0.30	0.00
07/15/15	els	Preparation And Review Of Correspondence To Mr. Greenstein Regarding His Representation Of Plaintiff	0.20	0.00
07/15/15	snk	Preparation And Review Of Service Of Court Document To Mr. McDonough And Mr. Jabro Enclosing Notice Of Appearance And Designation Of Email Addresses	0.30	0.00
07/15/15	snk	Receipt And Review Of Service Of Court Document From Clerk Of The Court Enclosing Notice Of Appearance And Designation Of Email Addresses	0.30	0.00
07/15/15	snk	Preparation And Review Of Correspondence To Mr. Greenstein With Enclosures	0.20	0.00
07/15/15	els	Review And Analyze [REDACTED] [REDACTED]	2.00	0.00
07/16/15	els	Telephone Conference With Travelers Adjuster	0.30	0.00
07/16/15	els	Review And Evaluate Motion to Dismiss and Legal Research	2.50	0.00
07/17/15	snk	Receipt And Review Of Correspondence From Mr. Greenstein Regarding James McDonough	0.20	0.00
07/17/15	snk	Preparation And Review Of Service Of Court Document To Mr. McDonough Enclosing Motion To Dismiss	0.30	0.00
07/17/15	snk	Receipt And Review Of Service Of Court Document From Clerk Of The Court Enclosing Motion To Dismiss	0.30	0.00
07/17/15	els	Review And Evaluate Motion to Dismiss	5.00	0.00

Client Ref: 2847 - 1126  
Invoice # 170062

September 1, 2015  
Page 2 of 2

**For Professional Services Rendered**

<b>Date</b>		<b>Services</b>	<b>Hours</b>	<b>Amount</b>
07/20/15	els	Review And Evaluate New Claim for 1983 Damages and Research [REDACTED]	1.00	0.00
07/23/15	els	Receipt And Review Of Correspondence From Mr. Ostrow Dated July 7, 2015 Regarding Claim Of James McDonough	0.20	0.00
07/23/15	els	Receipt And Review Of Correspondence To Mr. Ostrow Regarding Claim Of James McDonough	0.20	0.00
07/24/15	els	Telephone Conference With Ricky Rivera and Scott Kennedy, File Review and Background	1.00	0.00
07/24/15	els	Review And Evaluate [REDACTED]	3.00	0.00
07/27/15	els	Review And Evaluate [REDACTED]	1.00	0.00
07/27/15	els	Preparation And Review Of Notice Of Hearing Defendant's Motion To Dismiss	0.30	0.00
07/28/15	snk	Preparation And Review Of Service Of Court Document To Mr. McDonough Enclosing Notice Of Hearing On Motion To Dismiss	0.20	0.00
07/28/15	snk	Receipt And Review Of Service Of Court Document From Clerk Of The Court Enclosing Notice Of Hearing On Motion To Dismiss	0.20	0.00
07/29/15	els	Preparation And Review Of Correspondence To Mr. Murguido Enclosing Motion To Dismiss And Notice Of Hearing	0.30	0.00
07/29/15	snk	Preparation And Review Of Correspondence To Mr. Murguido With Enclosures	0.20	0.00
07/29/15	snk	Preparation And Review Of Correspondence To Ms. Thompson With Enclosures	0.20	0.00
07/30/15	els	Receipt And Review Of Notice Of Hearing Regarding Defendant Louis Gomez Motion To Dismiss	0.30	0.00
07/30/15	snk	Receipt And Review Of Service Of Court Document From Clerk Of The Court Enclosing Notice Of Hearing Regarding Defendant Louis Gomez Motion To Dismiss	0.20	0.00
<b>Total Professional Services</b>			<b>20.50</b>	<b>\$0.00</b>

**Invoice Summary**

For Professional Services	0.00
For Disbursements Incurred	0.00
<b>Total this Invoice</b>	<b>\$0.00</b>

## **EXHIBIT R**

Reply to Sewell Requesting Remaining Records



Eric McDonough &lt;phd2b05@gmail.com&gt;

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**Response to PRR Dated November 12, 2019**

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**Eric McDonough** <phd2b05@gmail.com>

Tue, Nov 19, 2019 at 2:20 PM

To: Elizabeth Sewell &lt;ESewell@cityofhomestead.com&gt;

Cc: slosner@cityofhomestead.com, sfletcher@cityofhomestead.com, Stephen Shelley &lt;sshelley@cityofhomestead.com&gt;, Jenifer Bailey &lt;JBAILEY@cityofhomestead.com&gt;, Patricia Fairclough &lt;Pfairclough@cityofhomestead.com&gt;, Larry Roth &lt;Lroth@cityofhomestead.com&gt;, George Gretsas &lt;ggretsas@cityofhomestead.com&gt;, Al Rolle &lt;arolle@homesteadpolice.com&gt;

Dear Elizabeth,  
I hope you are having a wonderful day.

Thank you for your response to my November 12, 2019 records request.

However, I am perplexed at your response and the interpretation(s) you have made.

Once again I am requesting immediate production of all records which were responsive at the time I originally filed the request in 2015. This means all related records "ad infinitum."

Apparently your attorney, Sam Zeskind, does not understand what "all" means unless I add the term ad infinitum, Zeskind also basically stated this on the record, at the September 12, 2016 hearing. For the record ad infinitum does not modify the term "all".

If the city has records in its possession that are in anyway related to the defense of, or decision to defend, Murguido when he was being sued in a civil case in his individual capacity, and they were responsive and available on October 12, 2015, I want them, period. This means any and all responsive records related to the defense of and decision to defend Murguido in this civil case ad infinitum.

Additionally, while Murguido may have a confidentiality privilege with the attorneys about the civil case at issue, the city and Murguido, and the city and the attorney do not.

I expect all of the responsive records requested which are in the possession of the city, not it's contractor(s), to be provided fully and completely by the end of the week, and any withheld or redacted material to state the specific reason for withholding and redaction.

Regards,

Dr. James Eric McDonough

On Tue, Nov 19, 2019 at 11:53 AM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

[Quoted text hidden]



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response to PRR Dated November 12, 2019

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**Eric McDonough** <phd2b05@gmail.com>

Tue, Nov 19, 2019 at 2:25 PM

To: Elizabeth Sewell &lt;ESewell@cityofhomestead.com&gt;

Cc: slosner@cityofhomestead.com, sfletcher@cityofhomestead.com, Stephen Shelley &lt;sshelley@cityofhomestead.com&gt;, Jenifer Bailey &lt;JBAILEY@cityofhomestead.com&gt;, Patricia Fairclough &lt;Pfairclough@cityofhomestead.com&gt;, Larry Roth &lt;Lroth@cityofhomestead.com&gt;, George Gretsas &lt;ggretsas@cityofhomestead.com&gt;, Al Rolle &lt;arolle@homesteadpolice.com&gt;

Dear Elizabeth,

Sorry I made a mistake in that last email. I am asking for all responsive records available on November 19, 2015 when the city responded to the original request. NOT the earlier date when the request was filed.

Thank you.

Dr. James Eric McDonough

[Quoted text hidden]

## **EXHIBIT S**

Mandel Asserting All Records Provided and Case in Moot



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Scheduling hearings

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**Matthew H. Mandel** <MMandel@wsh-law.com>  
To: Eric McDonough <phd2b05@gmail.com>  
Cc: "Samuel I. Zeskind" <SZeskind@wsh-law.com>

Mon, Mar 11, 2019 at 5:37 PM

Hello Dr. McDonough,

Thank you for your wishes, and the same to you.

Regarding Case No. 17-017515, we are available for a motion calendar hearing on March 21, which is the next available motion calendar. Judge Rebull's calendar is suspended the following week, and it does not resume until April 2 (though I am not available on that date). If you are not available on March 21, I can be available on April 4. Please let me know.

As for Case No. 19-06869, I understand that you now have the requested documents, which the City has not charged you for. So the matter is moot, and we do not see any basis for a hearing on that case.

Best regards.

**From:** Eric McDonough <phd2b05@gmail.com>  
**Sent:** Monday, March 11, 2019 3:57 PM  
**To:** Matthew H. Mandel <MMandel@wsh-law.com>  
**Subject:** Scheduling hearings

Dear Counselor,

It is hoped you are well.

It is assumed that you will be representing City of Homestead in the recently filed case, Case No. 19-06869. I was seeing if we could confer on setting a hearing in this case at the earliest possible time.

I was also checking on when we could set a hearing for the Discovery Motions in case, Case No. 17-017515. You stated that you would work to set the hearing as soon as the case was transferred back to Judge Rebull, which occurred last week.

Please respond as soon as you are able so we can set hearings for these cases.

Thank you.

Dr. James Eric McDonough

Matthew H. Mandel

Member / Chair, Litigation Division



200 East Broward Blvd., Suite 1900 | Fort Lauderdale, FL 33301

P: (954) 763-4242 F: (954) 764-7770 wsh-law.com | vCard



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Pursuant to the Fair Debt Collection Practices Act, this communication is from a debt collector. Any information obtained will be used for the purpose of collecting a debt.



## **EXHIBIT T**

Sewell Email “Remaining Responsive Records” Provided



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response for Remaining non-produced records

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**Elizabeth Sewell** <ESewell@cityofhomestead.com>  
To: Eric McDonough <phd2b05@gmail.com>

Fri, Mar 15, 2019 at 2:42 PM

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAinxseeliDctDDFKVSLjGPa?dl=0>

**From:** Eric McDonough [<mailto:phd2b05@gmail.com>]  
**Sent:** Wednesday, March 13, 2019 10:04 PM  
**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>  
**Cc:** Matthew Pearl <[mpearl@wsh-law.com](mailto:mpearl@wsh-law.com)>; Matthew H. Mandel <[MMandel@wsh-law.com](mailto:MMandel@wsh-law.com)>  
**Subject:** Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

11/26/2019

Gmail - Response for Remaining non-produced records

Dr. James Eric McDonough

## **EXHIBIT U**

Third Set of Responsive Records



Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response for Remaining non-produced records

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**Elizabeth Sewell** <ESewell@cityofhomestead.com>  
To: Eric McDonough <phd2b05@gmail.com>  
Cc: Julissa Chavez <JChavez@cityofhomestead.com>

Thu, Mar 21, 2019 at 12:22 PM

Good afternoon Mr. McDonough,

Attached are additional records responsive to your public records request dated February 18, 2019. These records have been redacted pursuant to section 119.071(5)(b), Florida Statutes ("Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution."). Also, additional responsive records, in the form of doctors' notes required to substantiate medical leave requests, have been withheld as confidential and exempt from disclosure pursuant to Health Insurance Portability and Accountability Act Privacy Rule of 1996 (HIPAA), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

**From:** Eric McDonough [mailto:phd2b05@gmail.com]  
**Sent:** Monday, March 18, 2019 12:26 PM  
**To:** Elizabeth Sewell <ESewell@cityofhomestead.com>  
**Subject:** Re: Response for Remaining non-produced records

Hello Elizabeth,

I was able to access the 153 page PDF.

As to any other documents, it is clear that the City is playing games with the public records law. I will be better able to answer that question after discovery and depositions have been completed.

Thank you.

Dr. James Eric McDonough

On Mon, Mar 18, 2019, 10:53 AM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good morning Mr. McDonough,

Please confirm that you were able to access the 153-page PDF in the dropbox link that was provided by email on Friday, March 15, 2019.

Also, with respect to the "other responsive documents" you are requesting, please provide clarification as to what records you are seeking. If there is a specific record or category of records that you believe is responsive to your

request but has not been produced, please identify them so that the City can conduct a further search of its records.

Thank you

**From:** Eric McDonough [mailto:phd2b05@gmail.com]  
**Sent:** Friday, March 15, 2019 8:12 PM  
**To:** Elizabeth Sewell <ESewell@cityofhomestead.com>  
**Cc:** Matthew H. Mandel <MMandel@wsh-law.com>; Matthew Pearl <mpearl@wsh-law.com>  
**Subject:** Re: Response for Remaining non-produced records

I have the records you have sent me about 5 times now. Unless there is something on the CD not on the Dropbox link, I am not interested in it.

However, I do appreciate you providing at least some of the other responsive documents proving that the City had violated the law at least twice in this records request. If anyone wants to admit that that willfully denied me the records that would be great.

I haven't heard back on the dates for taking your deposition in this case. Would you like to provide a date for the next week or two? If I don't hear back by Monday at 4 pm, I'll just serve another subpoena.

Thanks.

Dr. James Eric McDonough

On Fri, Mar 15, 2019, 8:02 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

Good evening Mr. McDonough,

In addition to the dropbox links that I have sent twice, the records are on a disc that is ready for you to pick up at city hall.

**From:** Eric McDonough [mailto:phd2b05@gmail.com]  
**Sent:** Friday, March 15, 2019 5:15 PM  
**To:** Elizabeth Sewell <ESewell@cityofhomestead.com>  
**Cc:** Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>; Samuel I. Zeskind <SZeskind@wsh-law.com>  
**Subject:** Re: Response for Remaining non-produced records

Since you were emailing me a second time, I thought you were ready to provide the rest of the responsive documents.

Guess I was mistaken.

On Fri, Mar 15, 2019, 5:13 PM Elizabeth Sewell <ESewell@cityofhomestead.com> wrote:

This email was sent to you at 2:42pm with a drop box link with the records. Please see the below emails. Thank you.

---

**From:** Elizabeth Sewell  
**Sent:** Friday, March 15, 2019 5:01 PM  
**To:** 'Eric McDonough' <phd2b05@gmail.com>  
**Subject:** FW: Response for Remaining non-produced records

---

**From:** Elizabeth Sewell  
**Sent:** Friday, March 15, 2019 2:42 PM  
**To:** 'Eric McDonough' <phd2b05@gmail.com>  
**Subject:** Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAxseeliDctDDFKVSLjGPa?dl=0>

**From:** Eric McDonough [mailto:phd2b05@gmail.com]  
**Sent:** Wednesday, March 13, 2019 10:04 PM  
**To:** Elizabeth Sewell <ESewell@cityofhomestead.com>  
**Cc:** Matthew Pearl <mpearl@wsh-law.com>; Matthew H. Mandel <MMandel@wsh-law.com>  
**Subject:** Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough



**Murguido Travel Information.PDF**  
555K



## **EXHIBIT V**

Fourth Set of Responsive Records



Eric McDonough &lt;phd2b05@gmail.com&gt;

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**Response for Remaining non-produced records PRR 2/18/2019**

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**Elizabeth Sewell** <ESewell@cityofhomestead.com>

Tue, Mar 26, 2019 at 2:01 PM

To: Eric McDonough &lt;phd2b05@gmail.com&gt;

Good afternoon Mr. McDonough,

Attached are emails concerning workers' comp leave taken by Officer Murguido in 2014. Please note that the medical records attached to the February 23, 2014 email have been withheld as confidential and exempt from disclosure pursuant to the Health Insurance Portability and Accountability Act Privacy Rule of 1996 ("HIPAA"), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

The incident report(s)/workers comp reports and accident reports referenced in your emails below were not part of the leave process and were not used to substantiate any requests for leave. Therefore, such reports are not responsive to your February 18, 2019 request. As a result, the City will process your request for these reports relating to Officer Murguido as a new request, of which the City acknowledges receipt.

**From:** Eric McDonough [mailto:[phd2b05@gmail.com](mailto:phd2b05@gmail.com)]

**Sent:** Tuesday, March 26, 2019 12:46 PM

**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>

**Cc:** Matthew H. Mandel <[MMandel@wsh-law.com](mailto:MMandel@wsh-law.com)>; Matthew Pearl <[mpearl@wsh-law.com](mailto:mpearl@wsh-law.com)>; Samuel I. Zeskind <[SZeskind@wsh-law.com](mailto:SZeskind@wsh-law.com)>; Elvis Maldonado <[EMaldonado@cityofhomestead.com](mailto:EMaldonado@cityofhomestead.com)>; Patricia Fairclough <[PFairclough@cityofhomestead.com](mailto:PFairclough@cityofhomestead.com)>; George Gretsas <[GGretsas@cityofhomestead.com](mailto:GGretsas@cityofhomestead.com)>; Jenifer Bailey <[JBailey@cityofhomestead.com](mailto:JBailey@cityofhomestead.com)>; Larry Roth <[LRoth@cityofhomestead.com](mailto:LRoth@cityofhomestead.com)>; Stephen Shelley <[SShelley@cityofhomestead.com](mailto:SShelley@cityofhomestead.com)>; Jon Burgess <[JBurgess@cityofhomestead.com](mailto:JBurgess@cityofhomestead.com)>

**Subject:** Re: Response for Remaining non-produced records

Dear Elizabeth,

I have not heard back from you regarding the still unprovided responsive documents regarding the Worker's Comp leave Officer Alejandro Murguido took between February 7, 2014 and March 1, 2014. This would include at least: 1) The State Workers Comp reporting form which is required by the State; and 2) The City of Homestead Accident Report used to report accidents to human resources. Both of these are public records and should not be exempt. Please provide these records and any and all further records responsive to the February 18, 2019 records request immediately.

Thank you,

Dr. James Eric McDonough

On Sat, Mar 23, 2019 at 3:45 PM Eric McDonough <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)> wrote:

Dear Elizabeth,

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

Regardless, the actual incident report of him being injured at work is not a medical record and should not be exempt. Yet, you have failed to provide this record(s) after three attempts to produce responsive records now. Is there a reason the incident report has not been provided to date? Will you be providing me with this record(s) voluntarily or will you make the Judge force you to?

Sadly, your non-compliance with statutory obligations has led to your employer being sued yet again. I must ask are you purposefully trying to increase the attorney fees, currently at least a quarter of a millions dollars, which the City is paying to defend non-compliance of your office with the Public Records Act?

Thank you for your time. I look forward to expeditiously receiving more records responsive to my 2/18/2019 request. Hopefully you will provide all the remaining responsive records to my request, but that is doubtful.

Dr. James Eric McDonough

On Thu, Mar 21, 2019 at 12:23 PM Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)> wrote:

Good afternoon Mr. McDonough,

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**From:** Eric McDonough [mailto:[phd2b05@gmail.com](mailto:phd2b05@gmail.com)]

**Sent:** Monday, March 18, 2019 12:26 PM

**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>  
**Subject:** Re: Response for Remaining non-produced records

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I was able to access the 153 page PDF.

As to any other documents, it is clear that the City is playing games with the public records law. I will be better able to answer that question after discovery and depositions have been completed.

Thank you.

Dr. James Eric McDonough

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Thank you

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**Cc:** Matthew H. Mandel <[MMandel@wsh-law.com](mailto:MMandel@wsh-law.com)>; Matthew Pearl <[mpearl@wsh-law.com](mailto:mpearl@wsh-law.com)>  
**Subject:** Re: Response for Remaining non-produced records

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I haven't heard back on the dates for taking your deposition in this case. Would you like to provide a date for the next week or two? If I don't hear back by Monday at 4 pm, I'll just serve another subpoena.

Thanks.

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**Subject:** Re: Response for Remaining non-produced records

Since you were emailing me a second time, I thought you were ready to provide the rest of the responsive documents.

Guess I was mistaken.

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This email was sent to you at 2:42pm with a drop box link with the records. Please see the below emails. Thank you.

---

**From:** Elizabeth Sewell

**Sent:** Friday, March 15, 2019 5:01 PM

**To:** 'Eric McDonough' <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)>

**Subject:** FW: Response for Remaining non-produced records

---

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**Sent:** Friday, March 15, 2019 2:42 PM

**To:** 'Eric McDonough' <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)>

**Subject:** Response for Remaining non-produced records

Good afternoon Mr. McDonough,

The remaining responsive records are in the below dropbox link.

<https://www.dropbox.com/sh/29mthue5x4aya4j/AAAxseeliDctDDFKVSLjGPd?dl=0>

**From:** Eric McDonough [<mailto:phd2b05@gmail.com>]  
**Sent:** Wednesday, March 13, 2019 10:04 PM  
**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>  
**Cc:** Matthew Pearl <[mpearl@wsh-law.com](mailto:mpearl@wsh-law.com)>; Matthew H. Mandel <[MMandel@wsh-law.com](mailto:MMandel@wsh-law.com)>  
**Subject:** Remaining non-produced records

Dear Elizabeth,

I have not received a response acknowledging my request this morning for the remaining responsive records which were not supplied in the initial response on 3/11/2019.

As you are aware Judge Rodriguez issued an Alternative Writ in Mandamus today requiring the City to respond with its defenses within 20 days, thereafter an immediate hearing will be set.

While my Amended Complaint stated that records were provided on 3/11/2019, it was not clear that not all records had been produced.

Please provide the remaining responsive records by Monday 3/18/2019.

If you fail to produce the remaining records I will have to consider contacting Judge Rodriguez's chambers again to set an additional immediate hearing to force their production, as is my right under FS. 119.11(1). However, I prefer to minimize time and resources wasted by all parties including the court.

Thank you for your compliance.

Dr. James Eric McDonough

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#### 5 attachments



**Murguido- WC status dated 02-13-14.pdf**  
66K



**Payroll for February 9, 2014.PDF**  
146K



**Payroll for February 16, 2014.PDF**  
162K



**Payroll for February 23, 2014.PDF**

139K



**Payroll for March 2, 2014.PDF**

101K

## **EXHIBIT W**

Fifth Set of Responsive Records





Eric McDonough &lt;phd2b05@gmail.com&gt;

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## Response for Remaining Worker's Compensation records

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**Elizabeth Sewell** <ESewell@cityofhomestead.com>  
To: Eric McDonough <phd2b05@gmail.com>

Thu, Mar 28, 2019 at 3:02 PM

Good afternoon Mr. McDonough,

Attached are the initial workers comp reports and corresponding accident reports you requested. Please note that the records have been redacted pursuant to § 119.071(4)(a)(1), Fla. Stat. (social security numbers) and § 119.071(4)(d)(1)2.a., Fla. Stat. (home addresses, telephone numbers and dates of birth of sworn law enforcement personnel). In addition, corresponding medical records have been withheld as confidential and exempt from disclosure pursuant to the Health Insurance Portability and Accountability Act Privacy Rule of 1996 ("HIPAA"), and sections 119.071(4)(b), 112.08(7), 395.3025(7)(a), 456.057, Fla. Stat.

**From:** Eric McDonough [mailto:[phd2b05@gmail.com](mailto:phd2b05@gmail.com)]

**Sent:** Tuesday, March 26, 2019 12:46 PM

**To:** Elizabeth Sewell <[ESewell@cityofhomestead.com](mailto:ESewell@cityofhomestead.com)>

**Cc:** Matthew H. Mandel <[MMandel@wsh-law.com](mailto:MMandel@wsh-law.com)>; Matthew Pearl <[mpearl@wsh-law.com](mailto:mpearl@wsh-law.com)>; Samuel I. Zeskind <[SZeskind@wsh-law.com](mailto:SZeskind@wsh-law.com)>; Elvis Maldonado <[EMaldonado@cityofhomestead.com](mailto:EMaldonado@cityofhomestead.com)>; Patricia Fairclough <[PFairclough@cityofhomestead.com](mailto:PFairclough@cityofhomestead.com)>; George Gretsas <[GGretsas@cityofhomestead.com](mailto:GGretsas@cityofhomestead.com)>; Jenifer Bailey <[JBailey@cityofhomestead.com](mailto:JBailey@cityofhomestead.com)>; Larry Roth <[LRoth@cityofhomestead.com](mailto:LRoth@cityofhomestead.com)>; Stephen Shelley <[SShelley@cityofhomestead.com](mailto:SShelley@cityofhomestead.com)>; Jon Burgess <[JBurgess@cityofhomestead.com](mailto:JBurgess@cityofhomestead.com)>

**Subject:** Re: Response for Remaining non-produced records

Dear Elizabeth,

I have not heard back from you regarding the still unprovided responsive documents regarding the Worker's Comp leave Officer Alejandro Murguido took between February 7, 2014 and March 1, 2014. This would include at least: 1) The State Workers Comp reporting form which is required by the State; and 2) The City of Homestead Accident Report used to report accidents to human resources. Both of these are public records and should not be exempt. Please provide these records and any and all further records responsive to the February 18, 2019 records request immediately.

Thank you,

Dr. James Eric McDonough

On Sat, Mar 23, 2019 at 3:45 PM Eric McDonough <[phd2b05@gmail.com](mailto:phd2b05@gmail.com)> wrote:

Dear Elizabeth,

Sorry for not replying earlier to your response. I had to wait so as not to reply in anger. What is crystal clear is that you hold me in contempt, think I am mentally deficient, and treat me and others as such to your employer's detriment.

Twice now, after providing the first set of records after the filing of suit, you have provided additional records responsive to my 2/18/2019 records request. Yet, you have still failed to provided all responsive records.

For instance you claim that additional responsive records required to substantiate medical leave request are exempt under FS. 119 and HIPPA. I agree that doctor's notes and medical records are exempt. However, are you proposing Murguido took an entire month of workers comp leave and there is no incident report for this? He had to of gotten hurt at work to take a month off under workers comp correct? As Murguido has been in at least 8 to 9 accidents in police vehicles to my knowledge, and drives like a absolute maniac, it is assumed that Murguido was in yet another accident. If so hopefully his reckless driving only hurt himself this time and not others. Not sure of this maybe he slipped and fell, or got shot by a suspect, etc.

Regardless, the actual incident report of him being injured at work is not a medical record and should not be exempt. Yet, you have failed to provide this record(s) after three attempts to produce responsive records now. Is there a reason the incident report has not been provided to date? Will you be providing me with this record(s) voluntarily or will you make the Judge force you to?

Sadly, your non-compliance with statutory obligations has led to your employer being sued yet again. I must ask are you purposefully trying to increase the attorney fees, currently at least a quarter of a millions dollars, which the City is paying to defend non-compliance of your office with the Public Records Act?

Thank you for your time. I look forward to expeditiously receiving more records responsive to my 2/18/2019 request. Hopefully you will provide all the remaining responsive records to my request, but that is doubtful.

Dr. James Eric McDonough

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2624K